

REMARKS

This paper is submitted in response to the non-final Office Action mailed June 6, 2008 and is accompanied by a petition for a three-month extension of time. The appropriate extension of time fee has been paid by credit card.

In the Office Action, (a) claims 1-3, 10, and 11 were rejected under 35 U.S.C. §102(b) as being anticipated by Swinburne (U.S. Patent No. 6,619,361); (b) claims 1-15 were rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Clusserath (U.S. Patent No. 5,713,403); (c) claims 1-3, 10, and 11 were rejected under 35 U.S.C. §103(a) as being obvious over Clusserath in view of Swinburne; and (d) claims 4-9 and 12-15 were rejected under 35 U.S.C. §103(a) as being obvious over Clusserath and Swinburne, and further in view of Hashiguchi (U.S. Patent Application Publication No. 2002/0161467).

By way of this paper, claims 1-3 and 11 are currently amended. Support for these amendments can be found throughout the specification. No new matter has been added.

The present application is directed to a labeling machine includes a conveying machine 2 equipped with a control unit 10, and a plurality of labeling units 3, 4, 5, each of which is equipped with its own control unit 11, 12, 13, respectively. To facilitate replacement, the control units 11, 12, 13 of the labeling units 3, 4, 5 transmit identification information to the control unit 10 of the conveying device 2 to at least partially automatically configure the labeling machines when replaced. See, paragraph [0011], for example. Automatic configuration is more convenient and time efficient than manual configuration.

In accordance with the foregoing, independent claims 1-3 and 11 are directed to a device (claims 1-3) and method (claim 11) for facilitating the replacement, i.e., the exchange, of a labeling unit of a labeling machine, wherein identification data of the labeling unit can be transmitted to a conveyance device.

Neither Swinburne, Clusserath, nor Hashiguchi, alone or in combination, disclose or suggest each and every feature of the claimed invention.

THE SWINBURNE REFERENCE

Swinburne is directed to a system for avoiding downtime while reloading labels to a labeling unit. This is solved by providing at least two identical labeling mechanisms that can be alternately reloaded and actuated, as described in column 2, lines 30-67. In the Office Action, the examiner states that Swinburne discloses a labeling unit wherein "at least identification data of the labeling unit, e.g., information about the machine state, information about the label supply, etc., is transmitted to the conveyance device (Column 3, lines 42-51 and Column 4, line 43)," as recited in claims 1-3 and 11 of the present application. Applicants respectfully disagree.

First, Applicants submit that Swinburne does not disclose "identification data of the labeling unit," as recited in the claims of the present application. A person having ordinary skill in the art understands that "identification data" means data that "identifies" the labeling unit, i.e., distinguishes one labeling unit from the others. This understanding is both supported by the ordinary meaning of the term "identification," as well as the specification of the present application. For example, the definition of "identification" set forth in the American Heritage® Dictionary for the English Language (copy attached) comprises "the act of identifying" or the "state of being identified." Moreover, the definition of "identify" (copy also attached) set forth in the American Heritage® Dictionary for the English Language is "to ascertain the origin, nature, or definitive characteristics of." Finally, paragraph [0009] of the specification of the present application is in conformity with these dictionary definitions when it described that "[t]he labeling unit has identification data which identifies the labeling unit. This may be, for example, the type of machine, the commission number, the software version number or the like." Such "identification data" helps identify, or distinguish, each labeling unit from the remaining labeling units.

Swinburne does not disclose "identification data." Swinburne merely discloses a control device that communicates with other components of the system for operational purposes. For example, column 3, lines 42-51, which was cited in the Office Action, describes that the control device...

...may also interact with other automated operations along the line itself, including conveyors, so that when the labeler is switching from one labeling mechanism to another, unlabeled product is not passing by. In another embodiment, the control unit may respond to sensing a labeling head jam or lack of labels by lighting an indicator light, sounding an alarm, or both. This indicator alerts the operator to manually slide the slidable frame into a position so as to place a fresh labeling mechanism over active labeling site.

Thus, Swinburne does not disclose or even suggest the use of "identification data" of the labeling unit, let alone the transmission of such data to other components in the system.

Second, even if the interaction disclosed by Swinburne amounted to including "identification data" of the labeling units, such data is never transmitted to a conveying device, as recited in the claims of the present application. Rather, as discussed, this data is merely used to adjust the behavior of the labeling unit and/or the conveyor. It is not transmitted anywhere and is certainly not disclosed as being used to configure the labeling unit, as is the purpose of the data of the present application.

Notwithstanding the foregoing, Applicants have amended claims 1-3 and 11 of the present application to expressly define the labeling units as being "exchangeable" labeling units. The labeling units disclosed by Swinburne are not "exchangeable," and there is no suggestion to make them exchangeable because Swinburne focuses on utilizing two labeling mechanisms in conjunction with each other so that they do not have to be exchanged.

THE CLUSSERATH REFERENCE

Clusserath is directed to a labeling machine including a single control device and a plurality of different labeling units that can be actuated individually with respect to the content of filled bottles. Bottles leaving the filling machine ahead of the labeler can be filled with different beverages because of a special filler design.

Clusserath does not disclose, or even suggest, that the labeling units include “identification data,” let alone identification data that is transmitted to a conveyance device, as recited in claims 1-3 and 11 of the present application. The Office Action concedes this point when it states that “Clusserath does not specifically describe the information transmitted between the control device (12) of the conveyance device and the labeling units...” But then, the Office Action goes on to assert that this information “is considered to inherently include identification data...” because “the control device and the labeling units are considered to comprise an internal computer network and/or internet connection. The Office Action does not provide any support for this assertion because no support exists.

Clusserath merely discloses a system having a single control device that controls a conveyor and a variety of labeling units. Clusserath does not disclose or suggest that any of these labeling units can have a control unit itself, or that any of the labeling units may be equipped with “identification data” that is transmitted to the single control device. As such, Clusserath cannot anticipate any of claims 1-3 and 11.

Moreover, no *prima facie* case of obviousness can be based, even in part, on Clusserath, because there is no suggestion to modify Clusserath to arrive at the claimed invention. The Office Action asserts that it would have been obvious to modify Clusserath to transmit and receive information such as address information “to identify and distinguish the labeling units to the control device and identification data to provide feedback to the control device regarding the state of the labeling units...” Applicants respectfully disagree. As discussed above, “identification data” includes data that identifies or distinguishes each labeling device from the others. This is useful when the labeling units are replaced, for example, such that the system can recognize the newly installed labeling unit and at least partly automatically configure the same. Clusserath does not disclose or even suggest the desirability to replace or exchange the labeling units. Thus, a person having ordinary skill in the art would not be driven to modify Clusserath to include “identification data,” as recited in the claims of the present application. As such, any formulation of

obviousness based on Clusserath can only be based on hindsight reasoning gleaned from Applicants' own disclosure, which is improper and should be withdrawn.

Again, notwithstanding the foregoing, Applicants have amended claims 1-3 and 11 of the present application to expressly define the labeling units as being "exchangeable" labeling units. As discussed, the labeling units of Clusserath are not "exchangeable," and there is no suggestion to make them exchangeable.

THE HASHIGUCHI REFERENCE

The Office Action states that in the event neither Swinburne nor Clusserath disclose or suggest "identification data," Hashiguchi does. Hashiguchi discloses a production line for filling, weighing, and packaging bags of product. Various stations of the production line include network-type components, e.g., a web server, an email client, an FTP client, a print client, and the like. The Office Action asserts that it is well known for such components to transmit address information, e.g., adjustable ip address information – which Applicants assume the Office is equating to the "identification data" of the present application. Applicants do not concede this point.

Regardless of what Hashiguchi discloses with respect to the transmission of ip address information between components, there remains no suggestion to modify the labeling machines of either Swinburne or Clusserath to utilize such technology. As discussed above, both Swinburne and Clusserath are silent as to the provision of replaceable or exchangeable labeling units and therefore there is no desire to include identification data. Moreover, both Swinburne and Clusserath presumably teach systems that are completely operable. Neither suggests a desire for change including the incorporation of a more complex network-type communication system.

Even if there was a suggestion to modify Swinburne and/or Clusserath to include transmission of information as disclosed in Hashiguchi, there remains no prior art that discloses or suggests a labeling machine with exchangeable labeling units as recited in amended claims 1-3 and 11 of the present application.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding anticipation and obviousness rejections.

Each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: December 8, 2008

Respectfully submitted,

By


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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

identification

SYLLABICATION: i·den·ti·fi·ca·tion

PRONUNCIATION:  ɪ-dĕn'tɪ-fī-kā'shən

NOUN: **1a.** The act of identifying. **b.** The state of being identified. **2.** abbr. **ID** Proof or evidence of identity. **3.** *Psychology* A person's association with or assumption of the qualities, characteristics, or views of another person or group.

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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

identify

SYLLABICATION: i·den·ti·fy

PRONUNCIATION: ɪ-dĕn'ti-fy

VERB: Inflected forms: **i·den·ti·fied, i·den·ti·fy·ing, i·den·ti·fies**

TRANSITIVE VERB: 1. To establish the identity of. 2. To ascertain the origin, nature, or definitive characteristics of. 3. *Biology* To determine the taxonomic classification of (an organism). 4. To consider as identical or united; equate. 5. To associate or affiliate (oneself) closely with a person or group.

INTRANSITIVE VERB: To establish an identification with another or others.

ETYMOLOGY: Medieval Latin *identificare*, to make to resemble : Late Latin *identitās*, identity; see identity + Latin *-ficāre*, -fy.

OTHER FORMS: **i·den·ti·fi·a·ble** —ADJECTIVE

i·den·ti·fi·a·bly —ADVERB

i·den·ti·fi·er —NOUN

USAGE NOTE: In the sense “to associate or affiliate (oneself) closely with a person or group,” *identify* suggests a psychological empathy with the feelings or experiences of another person, as in *Most young readers of The Catcher in the Rye will readily identify (or identify themselves) with Holden Caulfield*. This usage derives originally from psychoanalytic writing, where it has a specific technical meaning, but like other terms from that field, it was widely regarded as jargon when introduced into wider use. In particular, some critics seized on the fact that in this sense the verb was often used intransitively, with no reflexive pronoun. In recent years however, this use of *identify with* without the reflexive has become standard and may have become even more conventional than the reflexive construction. Eighty-two percent of the Usage Panel accepts the sentence *I find it hard to identify with any of his characters*, whereas only 63 percent now accepts this same usage when the reflexive

pronoun is used, as in *I find it hard to identify myself with any of his characters.*

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